

FILED

MAY 12 2010

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA
MINUTE ENTRY/ORDER

UNITED STATES
BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA

Bankruptcy Judge: Hon. Redfield T. Baum

Case Name: Andrew C. Bailey Chapter 11

Case No.: 2:09-bk-06979 RTBP

Adv. No. 2:09-ap-01731

Subject of Ruling: Amended Complaint against John Does "1-1000", Lehman Brothers Bank FSB, Wells Fargo Bank NA (Second Amended) for Lack of Standing, Breach of Contract, Damages for Fraud, Quiet Title, Emergency Injunctive Relief and Request for Emergency Hearing

Date of Ruling: May 12, 2010

Pending before the court is plaintiff's second amended complaint which seeks in part a temporary restraining order or preliminary injunction to stay a pending trustee sale by Wells Fargo. For the reasons stated below that request is denied.

Wells Fargo obtained stay relief in October 2009. Debtor/plaintiff filed a motion to reconsider which was denied by this court in February 2010. The court recently granted Wells Fargo's motion to dismiss the complaint in this adversary and granted plaintiffs request to file an amended complaint. Wells Fargo apparently has a trustee sale set for May 13, 2010.

A preliminary injunction, requires the moving party to establish four elements, namely: (1) a likelihood of success on the merits; (2) irreparable injury if the stay is not granted; (3) the stay will not cause substantial harm to the other party; and (4) the stay serves the public interest. Here, plaintiff has not established any of the four elements. The request for an injunction [count 5 of the second amended complaint] does not address elements (1), (3) and (4) above. Further,

based on the record the plaintiff has not established irreparable injury.

Plaintiff's request for injunctive relief is denied.

Copies e-mailed 5/12/10 to:

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By: /s/ Lorraine Davis
Deputy Clerk